

**Statement  
of**

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**Before the**

**Subcommittee on Domestic and International Monetary Policy  
Committee on Financial Services  
United States House of Representatives**

**Concerning**

**H.R. 5337, Reform of National Security Reviews of Foreign Direct Investments Act**

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**I. INTRODUCTION**

Madam Chairman, Ranking Member Maloney, and Members of the Subcommittee, I appreciate the opportunity to discuss the Department of Justice's role as a member of the Committee on Foreign Investment in the United States ("CFIUS"), which implements the Exon-Florio Amendment to Section 721 of the Defense Production Act of 1950 ("Exon-Florio"). The mission of the Department of Justice includes defending the interests of the United States and ensuring the public safety against threats both foreign and domestic. Because Exon-Florio is a tool for protecting national security, its effective implementation is important to the Department's mission. The Department is keenly aware of the significance of its responsibilities under Exon-Florio as a member of CFIUS, and we have worked extremely hard to meet those responsibilities with the utmost vigilance

## II. ROLE OF THE DEPARTMENT OF JUSTICE IN IMPLEMENTING EXON-FLORIO

The Department of Justice uses all of its law enforcement and investigatory techniques and resources to protect the national security and ensure public safety; however, Exon-Florio is an important national security tool when no other statutory authority exists, apart from Exon-Florio and the International Emergency Economic Powers Act, that is adequate to protect national security. Working with the rest of CFIUS, the Department carefully assesses each transaction that comes before CFIUS for review to determine whether the transaction could pose a risk to national security.

The Department of Justice has actively contributed to CFIUS deliberations regarding national security through identifying issues and providing expertise in areas such as counterterrorism, including terrorism financing; counterintelligence, with a focus on United States information and technology relating to national defense and critical infrastructure; and cybercrime and protection of the privacy of United States communications. The Department has also sought to ensure that the law enforcement community, including the Federal Bureau of Investigation (“FBI”), has the necessary tools to protect national security, ensure public safety, and enforce the laws.

The Department draws on its diverse resources to address the complex issues raised by the variety of transactions coming before CFIUS. The Department’s Criminal Division closely coordinates the involvement of various departmental components in the process. These components include: the FBI, which both coordinates with the intelligence community and provides operational and analytical support in the areas of counterterrorism, counterintelligence, critical infrastructure protection, privacy protection, and electronic surveillance; the Computer Crime and Intellectual Property Section, which provides expertise related to the United States

communications system, cybercrime, and privacy protection; the Office of Enforcement Operations and the Narcotic and Dangerous Drug Section, both of which provide expertise related to electronic surveillance issues; and the Counterespionage Section, which provides legal guidance on counterintelligence issues. The Office of Intelligence Policy and Review assists with intelligence community coordination. The Counterterrorism Section assists with reviewing transactions that may implicate terrorism concerns, including terrorism financing. In addition, the Antitrust Division has provided support and input in appropriate cases, and the Office of the Chief Information Officer has provided assistance on occasion when transactions implicate communications systems. In addition, the Department carefully considers threat assessments provided to CFIUS by the United States intelligence community, of which the FBI is a contributing member, and assessments of national security vulnerabilities provided by CFIUS agencies and others with relevant expertise. By bringing all of these diverse resources to bear, the Department of Justice has maximized its ability to participate in the effective implementation of Exon-Florio.

When warranted by a particular transaction, the Department of Justice carefully considers the possibility of resolving national security concerns associated with the transaction through an agreement with the parties. The Department of Justice, in partnership with other CFIUS agencies, has played an active role in developing, negotiating, and implementing many such agreements. These agreements are typically the result of negotiations between the companies involved in the transaction and those CFIUS member agencies whose specific responsibilities are implicated. In addition to the Department of Justice, the Departments of Homeland Security and Defense often are parties to these agreements. The agreements vary in scope and purpose,

depending on the facts of a particular transaction, and are negotiated on a case-by-case basis to meet the particular national security risks at issue.

Throughout the CFIUS process, the Department works closely with the other CFIUS agencies, each of which brings to the table critical expertise that is needed to make informed decisions regarding each transaction and, where necessary, to make recommendations to the President as contemplated by Exon-Florio. The national security issues associated with a given transaction can be quite complex and can consume significant time and resources, not only within the Department of Justice but also within other CFIUS agencies and the United States intelligence community. However, the Department strongly believes that, through its implementation of Exon-Florio, CFIUS has acted to protect national security.

### III. CONCLUSION

In conclusion, I again would like to thank you, Mr. Chairman, and the Committee for your interest in ensuring that Exon-Florio is as effective as possible and for giving me the opportunity to explain the Department of Justice's role with respect to this important national security safeguard. The Department welcomes the focus being brought by this Subcommittee to the CFIUS process and to potential improvements in Exon-Florio, as indicated by Assistant Secretary Lowery's statement which we endorse. The Department looks forward to further dialog with the Congress as this process moves forward.

Thank you, and I am happy to answer any questions you may have.